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U.S. LETS 3 PAPERS MERGE OPERATIONS

San Francisco Dailies Will Not Face Antitrust Action

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WASHINGTON, Sept. 3—

The antitrust division of the Justice Department has decided not to oppose a proposed cost-sharing combination among the three major San Francisco daily newspapers.

Sources in the department confirmed today that Donald F. Turner, Assistant Attorney General in charge of the division, had approved a letter informing the papers that the Government would not bring suit if they proceeded with their combination plans.

The newspapers are two Hearst dailies, The Morning Examiner and The Evening News-Call Bulletin, and The Morning Chronicle, an independent.

Would Share Publishing

The three newspapers had asked the department to state whether it would oppose an agreement for joint publishing, printing and other cost-sharing operations.

Financially troubled newspapers are increasingly turning to this type of combination, which allows them to maintain independent editorial policies while sharing production costs.

The Justice Department has opposed some outright newspaper mergers in recent months. However, the proposed San Francisco arrangement would be unusual because The Chronicle and The Examiner are competing morning papers.

The Hearst management was reportedly able to get the antitrust division's approval by arguing that both its papers were operating at a deficit, and that the combination would not be in restraint of trade.

Four newspaper antitrust actions have been filed by the Justice Department since May, 1964, but only one involved a cost-sharing arrangement.

Tucson Case Cited

The department brought suit in January to enjoin the impending purchase of The Arizona Daily Star by The Tucson Daily Citizen. The two papers had been operating under a joint-facilities, cost-sharing arrangement since 1940. The Government also asked that this arrangement be cancelled by the court as a violation of section 1 of the Sherman Antitrust Act.

Government lawyers argued that the cost-sharing contained elements of price-fixing, market division and profit-pooling, and that it was therefore in restraint of trade.

A decision on the Government's motion for summary judgment without trial is expected momentarily by Federal District Judge James A. Walsh.

One source reported that the department would not officially inform the San Francisco newspapers of its approval of their proposal until Judge Walsh had ruled, because the San Francisco arrangement would contain some of the elements attacked by the Government in the Tucson suit.

No Merger Seen

The Government is taking the position that the San Francisco proposal would not involve a merger. Also, the Tucson case is considered a test case; no Federal court has yet ruled on whether a newspaper cost-sharing combination is an antitrust violation.

A Justice Department source said today that the effect of the decision not to oppose the San Francisco combination now would not preclude the department from suing to break it at a later time.

Last June the antitrust division investigated reports that six New York dailies were conducting discussions aimed at cost-saving operations.

To obtain information, department served letters similar to subpoenas on The New York Times, the New York Herald Tribune, The New York Journal-American, the New York World-Telegram and The Sun, The Daily News and The New York Post.

The department later offered to set aside the requests for information, conditioned upon the papers' agreement to notify it at least 10 days before any agreement was signed.